IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1770 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DESAI BABARBHAI GANESHBHAI

Versus

DIRECTOR OF SOCIAL WELFARE

Appearance:

1. Special Civil Application No. 1770 of 1999

MR TR MISHRA for Petitioner No. 1

MR N.D.GOHIL, AGP for Respondent No. 1

MR VB GHARANIYA for Respondent No. 2

MR AV TRIVEDI for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 06/11/2003

ORAL JUDGEMENT

Heard learned advocate Mr. T.R.Mishra for

petitioner, learned advocate Mr. A.V.Trivedi appearing on behalf of respondent No.3 and learned AGP Mr. N.D.Gohil appearing on behalf of respondent Nos. 1 & 2.

2. The question raised in the present petition by the petitioner is that he has never tendered resignation to the respondent No.3. The respondent No.3 has raised the contention that resignation has been tendered by the petitioner. The petitioner has also disputed his signature and writing on the resignation against which the respondent No.3 has emphasized that the resignation is signed and written by the petitioner himself. This being the disputed question of fact, this Court cannot go into such question, therefore, better course for the petitioner is to raise industrial dispute under the machinery of the Industrial Disputes Act, 1947. Therefore, this petition, though admitted in the year 1999, this Court is not able to examine the disputed question of fact which has been raised by the respondent No.3 and, therefore, it is open for the petitioner to raise industrial dispute challenging the termination order or resignation before the appropriate forum.

3. In view of above observations, present petition is not entertained by this Court and same is disposed of. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*